

House File 2322 - Introduced

HOUSE FILE _____
BY DE BOEF, JACOBS, MAY,
and PAULSEN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act concerning offenses against identity by providing a
2 procedure to secure credit information and providing a
3 penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5094YH 82
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1 1 Section 1. NEW SECTION. 714F.1 DEFINITIONS.
1 2 For the purposes of this chapter, unless the context
1 3 otherwise requires:
1 4 1. "Consumer" means an individual.
1 5 2. "Consumer report" means any information relating to the
1 6 creditworthiness of a consumer.
1 7 3. "Consumer reporting agency" means any person or entity
1 8 engaged in the practice of assembling or evaluating consumer
1 9 credit information for the purpose of furnishing a consumer
1 10 report to a third party. A consumer reporting agency shall
1 11 not include any of the following:
1 12 a. A check service or fraud prevention service company
1 13 that reports on incidents of fraud or issues authorizations
1 14 for the purpose of approving or processing negotiable
1 15 instruments, electronic fund transfers, or similar methods of
1 16 payment.
1 17 b. A deposit account information service company that
1 18 issues reports regarding account closures due to fraud,
1 19 overdrafts, automated teller machine abuse, or similar
1 20 negative information regarding a consumer to inquiring
1 21 financial institutions for use only in reviewing the
1 22 consumer's request for a deposit account at the inquiring
1 23 financial institution.
1 24 c. Any person or entity engaged in the practice of
1 25 assembling and merging information contained in a database of
1 26 one or more consumer reporting agencies and does not maintain
1 27 a permanent database of credit information from which new
1 28 consumer reports are produced.
1 29 4. "Identification information" means as defined in
1 30 section 715A.8.
1 31 5. "Identity theft" means as used in section 715A.8.
1 32 6. "Proper identification" means sufficient identification
1 33 information to ascertain that individual's identity.
1 34 7. "Security freeze" means a hold placed on a consumer
1 35 report that prevents a consumer reporting agency from
2 1 releasing a consumer report without first obtaining the
2 2 consumer's express authorization.
2 3 Sec. 2. NEW SECTION. 714F.2 SECURITY FREEZE.
2 4 A consumer may submit by certified mail to a consumer
2 5 reporting agency a written request for a security freeze. The
2 6 consumer must submit proper identification with the request.
2 7 Within five business days after receiving the request, the
2 8 consumer reporting agency shall commence the security freeze.
2 9 Within ten business days after commencing the security freeze,
2 10 the consumer reporting agency shall send a written
2 11 confirmation to the consumer of the security freeze, a
2 12 personal identification number or password, other than the
2 13 consumer's social security number, for the consumer to use in
2 14 authorizing the suspension or removal of the security freeze,
2 15 including information on how the security freeze may be
2 16 temporarily suspended.
2 17 Sec. 3. NEW SECTION. 714F.3 TEMPORARY SUSPENSION.
2 18 A consumer may request that a security freeze be

2 19 temporarily suspended to allow the consumer reporting agency
2 20 to release the consumer report for a specific time period or
2 21 to a specific third party. The consumer reporting agency may
2 22 develop procedures to expedite the receipt and processing of
2 23 requests which may involve the use of telephones, facsimile
2 24 transmissions, the internet, or other electronic media. The
2 25 consumer reporting agency shall comply with the request within
2 26 three business days after receiving the request. The
2 27 consumer's request shall include all of the following:

- 2 28 1. Proper identification.
- 2 29 2. The personal identification number or password provided
2 30 by the consumer reporting agency.
- 2 31 3. Explicit instructions of the specific time period or
2 32 specific third party designated for suspension of the security
2 33 freeze.

2 34 Sec. 4. NEW SECTION. 714F.4 REMOVAL.

2 35 A security freeze remains in effect until the consumer
3 1 requests that the security freeze be removed. A consumer
3 2 reporting agency shall remove a security freeze within three
3 3 business days after receiving a request for removal that
3 4 includes proper identification of the consumer and the
3 5 personal identification number or password provided by the
3 6 consumer reporting agency.

3 7 Sec. 5. NEW SECTION. 714F.5 FEES.

3 8 1. A consumer reporting agency shall not charge any fee to
3 9 a consumer who is the victim of identity theft for
3 10 effectuating a security freeze, temporary suspension, or
3 11 removal if with the initial security freeze request, the
3 12 consumer submits a valid copy of the police report,
3 13 investigative report, or complaint filed with a law
3 14 enforcement agency concerning the unlawful use of
3 15 identification information by another person.

3 16 2. A consumer reporting agency may charge a reasonable fee
3 17 in an amount established by the superintendent of banking by
3 18 rule to a consumer who is not the victim of identity theft for
3 19 each security freeze or removal, or for reissuing a personal
3 20 identification number or password if the consumer fails to
3 21 retain the original number. The consumer reporting agency may
3 22 also charge a reasonable fee in an amount established by the
3 23 superintendent of banking by rule for each temporary
3 24 suspension of a security freeze.

3 25 Sec. 6. NEW SECTION. 714F.6 THIRD PARTIES.

3 26 If a third party requests a consumer report that is subject
3 27 to a security freeze, the consumer reporting agency may advise
3 28 the third party that a security freeze is in effect. If the
3 29 consumer does not expressly authorize the third party to have
3 30 access to the consumer report through a temporary suspension
3 31 of the security freeze, the third party shall not be given
3 32 access to the consumer report but may treat a credit
3 33 application as incomplete.

3 34 Sec. 7. NEW SECTION. 714F.7 MISREPRESENTATION OF FACT.

3 35 A consumer reporting agency may suspend or remove a
4 1 security freeze upon a material misrepresentation of fact by
4 2 the consumer. However, the consumer reporting agency shall
4 3 notify the consumer in writing prior to suspending or removing
4 4 the security freeze.

4 5 Sec. 8. NEW SECTION. 714F.8 EXCEPTIONS.

4 6 A security freeze shall not apply to the following persons
4 7 or entities:

4 8 1. A person or person's subsidiary, affiliate, agent, or
4 9 assignee with which the consumer has or prior to assignment
4 10 had an account, contract, or debtor-creditor relationship for
4 11 the purposes of reviewing the account or collecting the
4 12 financial obligation owing for the account, contract, or debt,
4 13 or extending credit to a consumer with a prior or existing
4 14 account, contract, or debtor-creditor relationship.
4 15 "Reviewing the account" includes activities related to account
4 16 maintenance, monitoring, credit line increases, and account
4 17 upgrades and enhancements.

4 18 2. A subsidiary, affiliate, agent, assignee, or
4 19 prospective assignee of a person to whom access has been
4 20 granted under a temporary suspension for purposes of
4 21 facilitating the extension of credit or another permissible
4 22 use.

4 23 3. A person acting pursuant to a court order, warrant, or
4 24 subpoena.

4 25 4. Child support enforcement officials when investigating
4 26 a child support case pursuant to Title IV-D or Title XIX of
4 27 the federal Social Security Act.

4 28 5. The department of human services or its agents or
4 29 assignees acting to investigate fraud under the medical

4 30 assistance program.

4 31 6. The department of revenue or local taxing authorities;
4 32 or any of their agents or assignees, acting to investigate or
4 33 collect delinquent taxes or assessments, including interest
4 34 and penalties and unpaid court orders, or to fulfill any of
4 35 their other statutory or other responsibilities.

5 1 7. A person's use of credit information for prescreening
5 2 as provided by the federal Fair Credit Reporting Act.

5 3 8. A person for the sole purpose of providing a credit
5 4 file monitoring subscription service to which the consumer has
5 5 subscribed.

5 6 9. A consumer reporting agency for the sole purpose of
5 7 providing a consumer with a copy of the consumer's consumer
5 8 report upon the consumer's request.

5 9 Sec. 9. NEW SECTION. 714F.9 WRITTEN CONFIRMATION.

5 10 After a security freeze is in effect, a consumer reporting
5 11 agency may post a name, date of birth, social security number,
5 12 or address change in a consumer report provided written
5 13 confirmation is sent to the consumer within thirty days of
5 14 posting the change. For an address change, written
5 15 confirmation shall be sent to both the new and former
5 16 addresses. Written confirmation is not required to correct
5 17 spelling and typographical errors.

5 18 Sec. 10. NEW SECTION. 714F.10 APPLICATION.

5 19 An entity listed in section 714F.1, subsection 3, paragraph
5 20 "a", "b", or "c", shall be subject to a security freeze
5 21 commenced by a consumer reporting agency that obtains
5 22 information from such entity.

5 23 Sec. 11. NEW SECTION. 714F.11 WAIVER VOID.

5 24 A waiver by a consumer of the provisions of this chapter is
5 25 contrary to public policy, and is void and unenforceable.

5 26 Sec. 12. NEW SECTION. 714F.12 ENFORCEMENT.

5 27 A person who violates this chapter violates section 714.16,
5 28 subsection 2, paragraph "a".

5 29 EXPLANATION

5 30 This bill concerns the protection of a person's identity.

5 31 The bill creates new Code chapter 714F that allows an
5 32 individual, the consumer, to place a hold on the individual's
5 33 consumer report to prevent a consumer reporting agency from
5 34 releasing any information relating to the individual's
5 35 creditworthiness without first obtaining the individual's
6 1 express authorization. This "security freeze" may be
6 2 temporarily suspended to allow a consumer reporting agency to
6 3 release a consumer report for a specific time period or to a
6 4 specific third party. A security freeze remains in effect
6 5 until the individual requests its removal.

6 6 The bill provides that a consumer reporting agency cannot
6 7 charge any fees to an individual who is the victim of identify
6 8 theft. Other individuals may be required to pay a reasonable
6 9 fee per security freeze or removal, or for reissuing a
6 10 necessary identification number or password if the individual
6 11 fails to retain it, and per temporary suspension request, in
6 12 an amount determined by the superintendent of banking by rule.

6 13 The bill addresses third parties that seek a consumer
6 14 report, misrepresentation of a material fact by an individual,
6 15 and lists exceptions to the security freeze, including a
6 16 person with a prior debtor-creditor relationship. The bill
6 17 provides for changes in the consumer report and makes certain
6 18 entities also subject to a security freeze.

6 19 The bill provides that a waiver of the protection offered
6 20 by the security freeze provision is void and unenforceable.

6 21 The bill contains an enforcement provision. A violation is
6 22 an offense under Code section 714.16, and as such would be
6 23 subject to enforcement, including injunctive relief and money
6 24 damages, by the attorney general.

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